

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION**

**RICHARD CLOUSE,**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 2:10CV218-P-A**

**ROBINSON PROPERTY GROUP  
CORP. d/b/a HORSESHOE CASINO  
& HOTEL,**

**DEFENDANT.**

**ORDER**

These matters come before the court upon the defendant's motion for summary judgment [docket number 28] and motions to strike Exhibits "D" and "A" attached to the plaintiff's response in opposition to the defendant's motion for summary judgment [docket numbers 33 and 37 respectively]. After due consideration of the motions, the court finds as follows, to-wit:

The defendant's motion for summary judgment should be denied. There are genuine issues of material fact with respect to the plaintiff's negligence claim since (1) the existence of a "wet floor" sign and the admission that the plaintiff saw and understood the sign before he slipped does not conclusively establish as a matter of law that the defendant gave notice that there was one or more ice cubes on the floor given that the term "wet floor" does not clearly connote ice cubes; (2) the cases regarding other wet floor incidents cited by the defendants are distinguished from the instant case; and (3) there are jury questions regarding the defendant's efforts in cleaning the floor. There are also genuine issues of material fact regarding the plaintiff's lost wages claim pursuant to Mississippi Model Jury Instruction 1:1 and *Parker Tractor & Implement Company, Inc. v. Johnson*, 819 So.2d 1234, 1239 (Miss. 2002) and given that the plaintiff himself is a financial expert.

The defendant's motions to strike Exhibits "D" and "A" attached to the plaintiff's response

in opposition to the defendant's motion for summary judgment should be granted since the subject *Jackson* case is entirely unrelated to the instant case.

**IT IS THEREFORE ORDERED AND ADJUDGED** that:

(1) The defendant's motions for summary judgment [docket number 28] is **DENIED**; whereas,

(2) The defendant's motions to strike Exhibits "D" and "A" attached to the plaintiff's response in opposition to the defendant's motion for summary judgment [docket numbers 33 and 37 respectively] are **GRANTED**; accordingly,

(3) The subject exhibits have been stricken from consideration in rendering a decision on summary judgment.

**SO ORDERED** this the 30<sup>th</sup> day of December, A.D., 2011.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE